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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation
Against:

LEONARD DOMINGUEZ
3621 Gold Bar Road
Bakersfield, CA 93312

Respiratory Care Practitioner License No. 26268

Respondent.

Case No. D1 2005 428

**PETITION TO REVOKE
PROBATION**

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about June 20, 2007, the Respiratory Care Board issued Respiratory Care Practitioner License Number 26268 to Leonard Dominguez (Respondent). The Respiratory Care Practitioner License expired on June 30, 2008, and has not been renewed.

DISCIPLINARY HISTORY

3. In a disciplinary action entitled "In the Matter of the Statement of Issues Against Leonard Dominguez," Case No. S-371, the Respiratory Care Board issued a decision effective June 20, 2007, in which Respondent's Respiratory Care Practitioner License was

1 revoked. However, the revocation was stayed and Respondent's license was placed on probation
2 for a period of three (3) years with certain terms and conditions. A copy of that decision is
3 attached as Exhibit A and is incorporated by reference.

4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Respiratory Care
6 Board (Board), Department of Consumer Affairs, under the authority of the following laws. All
7 section references are to the Business and Professions Code unless otherwise indicated.

8 5. Section 3710 of the Code states: "The Respiratory Care Board of
9 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
10 8.3, the Respiratory Care Practice Act]."

11 6. Section 3718 of the Code states: "The board shall issue, deny, suspend,
12 and revoke licenses to practice respiratory care as provided in this chapter."

13 7. Section 3750 of the Code states:

14 "The board may order the denial, suspension or revocation of, or the imposition of
15 probationary conditions upon, a license issued under this chapter, for any of the following
16 causes:

17 "(g) Conviction of a violation of any of the provisions of this chapter or of any
18 provision of Division 2 (commencing with Section 500), or violating, or attempting to
19 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
20 violate any provision or term of this chapter or of any provision of Division 2
21 (commencing with Section 500)."

22 8. Section 118, subdivision (b), of the Code provides that the suspension,
23 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
24 proceed with a disciplinary action during the period within which the license may be renewed,
25 restored, reissued or reinstated.

26 COST RECOVERY

27 9. Section 3753.5, subdivision (a) of the Code states:

28 "In any order issued in resolution of a disciplinary proceeding before the board,

1 the board or the administrative law judge may direct any practitioner or applicant found to have
2 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
3 investigation and prosecution of the case."

4 10. Section 3753.7 of the Code states:

5 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
6 include attorney general or other prosecuting attorney fees, expert witness fees, and other
7 administrative, filing, and service fees."

8 11. Section 3753.1 of the Code states:

9 "(a) An administrative disciplinary decision imposing terms of probation may
10 include, among other things, a requirement that the licensee-probationer pay the monetary costs
11 associated with monitoring the probation."

12 FIRST CAUSE TO REVOKE PROBATION

13 (Biological Fluid Testing)

14 12. Probation Condition 2 of the Decision and Order in case no. S-371 states:

15 "Respondent, at his expense, shall participate in random testing, including,
16 but not limited to, biological fluid testing... Failure to submit to testing or appear as
17 requested by any Board representative for testing, as directed, shall constitute a violation
18 of probation..."

19 13. Compass Vision Inc. (CVI) is the third party administrator of the Board's
20 biological fluid testing program. Respondent is required to telephone CVI on a daily basis to
21 determine if he will be selected to provide a specimen for testing and analysis. The date and time
22 of all calls made to the system are logged into CVI's database. Respondent was provided with
23 written materials explaining the procedures to be followed. He is in violation of Condition 2 in
24 that he failed to telephone CVI on the following dates in 2007: July 28, August 1,3, September
25 14, 15, 17, October 28, November 23, December 11, 22, and 23. In 2008, he failed to call CVI
26 on: February 23, March 9, 29, May 19, June 1, July 25, 29, August 5, 9, 11, 12, 14, 16, 22, 24,
27 27, 31, September 2, 5-8, 10, 12-29, October 1-8, 10, 11, 13, 15-17, 19, 21, 23, 24, 26, 28, 29,
28 31, November 1-4, 6-8, 12, 14-30, December 1 and 3 through the present date. Respondent has

1 not telephoned CVI on a daily basis since December 2, 2008.

2 14. On February 26, 2008 and May 5, 2008, Respondent was selected to
3 provide a specimen for testing and analysis and was required to appear by close of business on
4 each date. However, he did not provide a specimen until the day following his selection. On
5 July 12, 2008, he was selected to provide a specimen for testing and analysis by close of business
6 on that date; however, he did not provide a specimen until July 14, 2008.

7 15. Respondent was selected for testing on the following dates but failed to
8 appear: February 26, 2008, April 11, 2008, May 5, 2008, July 12, 2008, September 12, 2008,
9 November 3, 2008, November 26, 2008, December 23, 2008, January 6, 2009, February 17,
10 2009, April 10, 2009.

11 SECOND CAUSE TO REVOKE PROBATION

12 (Quarterly Reports)

13 16. Probation Condition 6 of the Decision and Order in case no. S-371 states:
14 "Respondent shall file quarterly reports of compliance under penalty of perjury
15 on forms to be provided to the probation monitor assigned by the Board. Omission or
16 falsification in any manner of any information on these reports shall constitute a violation
17 of probation and shall result in the filing of an accusation and/or a petition to revoke
18 probation against respondent's care practitioner license."

19 17. Respondent's did not submit two quarterly report on a timely basis: for
20 June 20, 2007 - September 30, 2007, the report was due on October 1 - 7, 2007. The Board
21 received his report on December 5, 2007. For the quarter January 1, 2008 - March 31, 2008, the
22 report was due April 1, 2008 - April 7, 2008. The Board did not receive his report until July 16,
23 2008.

24 18. Respondent failed to submit quarterly reports for April 1, 2008 - June 30,
25 2008; July 1, 2008 - September 30, 2008; October 1, 2008 - December 31, 2008 and January 1,
26 2009 - March 31, 2009.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking the probation that was granted by the Respiratory Care Board of
5 California in Case No. S-371 and imposing the disciplinary order that was stayed, thereby
6 revoking Respiratory Care Practitioner License No. 26268 issued to Leonard Dominguez;

7 2. Revoking or suspending Respiratory Care Practitioner License No. 26268,
8 issued to Leonard Dominguez;

9 3. Ordering Leonard Dominguez to pay the Respiratory Care Board the costs
10 of the investigation and enforcement of this case, and if probation is continued or extended, the
11 costs of probation monitoring;

12 4. Taking such other and further action as deemed necessary and proper.
13

14 DATED: May 6, 2009
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17 Original signed by Colleen Whitestine for:
18 STEPHANIE NUNEZ
19 Executive Officer
20 Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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